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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-------------------------------|-------------|----------------------|---------------------|------------------|
| 10/518,552 | 12/22/2004 | Anders Umegard | 1920-0128PUS1 | 8430 |
| 2292 | 7590 | 09/28/2006 | EXAMINER | |
| BIRCH STEWART KOLASCH & BIRCH | | | ALIMENTI, SUSAN C | |
| PO BOX 747 | | | ART UNIT | PAPER NUMBER |
| FALLS CHURCH, VA 22040-0747 | | | 3644 | |

DATE MAILED: 09/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|------------------------|---------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/518,552 | UMEGARD, ANDERS |
| | Examiner | Art Unit |
| | Susan C. Alimenti | 3644 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 20 January 2006.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-20 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-20 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>12/22/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In method claim 1 the follow are examples of indefiniteness:

- o In line 2, the word "thereof," renders the claim indefinite since it is unclear what applicant refers to. For purposes of furthering prosecution of the present case said phrase will be assumed to mean --of said row of stalls--.
- o In line 8, the limitation "the far end" lacks antecedent basis.
- o The phrase "the milk producing animal" is written in lines 8, 10, and 12, however, it appears that applicant may intend to refer to a plurality of animals. This repeated phrase is confusing and makes the claim limitations unclear.
- o In line 15, the claim recites the limitation "the first, last and n'th identifications," however, there is insufficient antecedent basis for this limitation in the claim. Further, the phrase from line 14 to 17 is awkward and confusing and should be reworded.

3. Apparatus claim 13 is replete with similar instances of indefiniteness, and should be reviewed and corrected appropriately.

4. Claims 3, 4 and 15, recite the limitation "the second, last, and (n-1)'th identifications."

Claim 6 recites the limitations "the i'th identification," and the "i'th stall." Claim 7 recites the limitation the "q'th identification," and "the q'th stall." There is insufficient antecedent basis for these limitations in the claims.

5. Claims 2-12 and 14-20 are rejected as being dependant upon the rejected subject matter of claims 1 and 13.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-8, and 11-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Bjork et al. (USPN 6,516,744).

Bjork et al, (Bjork) discloses the claimed apparatus and method, as best understood, comprising a plurality of identification members 20-26 for identifying a milking animal and monitor its location as it moves about a milking system and rows of stalls 16, 18. The identification members 20-26 communicate via a computer system (control device 12) with transponders connected to the individual animal in order to identify a file of information associated with the animal.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bjork as applied to claim 1 above, and further in view of Tucker (USPN 5,959,526).

Bjork discloses the claimed invention, as best understood, except he does not positively disclose recording the weight of the milk produced by each identified animal. Tucker discloses a device in the same field of invention and teaches the step of measuring and recording the amount of milk produced by an animal and using the milk weight value to assist in identifying the animal. It would have been obvious to one having ordinary skill in the art at the time the invention was made to measure and record the weight of the milk produced by each animal in order to provide an additional characteristic to identify the animal with.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan C. Alimenti whose telephone number is 571-272-6897. The examiner can normally be reached on Monday-Friday, 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 571-272-7045. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3644

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Susan C. Alimenti

MICHAEL J. CARONE
SUPERVISORY PATENT EXAMINER